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OFFICE OF PETITIONS

In re Application of
Zoller, et al.
Application No. 10/725,076
Filed: December 2, 2003
Attorney Docket No. 54078D1

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 28, 2005 and April 28, 2006, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 16, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 17, 2004. A Notice of Abandonment was mailed on November 22, 2004.

Petitioner asserts the Notice was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is **granted**.

The file is being forwarded to the Office of Initial Patent Examination for re-mailing of the January 16, 2004 Notice with a new period for response.

Telephone inquiries concerning this matter may be directed to the undersigned at
(571) 272-3228.

A handwritten signature in black ink, appearing to read 'E. Tannouse', with a long horizontal flourish extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy